

Application No. UP-614-03, Columbian Council 7469: Request to amend a previously approved Special Use Permit, pursuant to Section 24.1-115(d) of the Zoning Ordinance, granted for a Knights of Columbus meeting hall located at 8729 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24A-1-5. Revisions include reduction of landscaping and extension of time period to comply with conditions of approval. The 0.79-acre parcel is located on the south side of George Washington Highway, approximately 500 feet west of its intersection with York-Warwick Drive. The parcel is zoned LB (Limited Business) and is designated for Limited Business Use in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, reviewed the history of the applicant's property since the initial application was approved in 1997 and explained the three conditions of the approved resolution that are the primary focus of the application. Because none of the three conditions has been implemented the County has cited the applicant for zoning violations but is allowing six months for the applicant to comply with landscaping and parking requirements. The applicant, she continued, is requesting a two-year deferral for compliance with the conditions and has further indicated the property is on the market. Ms. Parker stated the staff recommends denial of the requested two-year extension, adding that the County was generous in allowing a five-year period to phase in the conditions.

Ms. Parker stated that the staff prepared proposed Resolution PCO3-3(R) for the Commission's consideration, which would allow an additional six months for the applicant to obtain revised site plan approval and complete the work required under Condition Nos. 2 and 3.

Chair Hendricks opened the public hearing.

Mr. Martin Fisher, 108 Old Dominion Road, was the applicant's spokesman. Mr. Fisher reviewed a chronology of events that led to obtaining the use permit and to the present time. Mr. Fisher indicated the failure to implement the conditions was due to several mitigating circumstances including the Commonwealth Transportation Board's decision to remove widening of Route 17 to the Coleman Bridge from its six-year road plan, delays by the County that impacted commencement of landscaping, and prohibitive costs involved in meeting new fire regulations. Mr. Fisher said the property has been on the market for more than a year but the conditions of the site plan to reduce parking to 12 spaces in front of the existing structure has discouraged at least two possible sales.

Mr. Fisher said that while the County characterizes the subject segment of Route 17 as an entry to the historic area, it has remained predominantly undeveloped and if the applicant is not allowed the extra time it requests to improve its position then another empty building will result. He said he has talked with the Chief of Development and Compliance, Mr. Al Maddalena, about parking and revising the landscape plan, although he has not submitted a revised site plan for Mr. Maddalena's staff to consider.

Mr. Fisher said the restaurant on the adjacent property to the north of the applicant's property also is for sale, and he was hopeful that the restaurateur and the applicant could work together to create a shared commercial entrance from Route 17 and a shared rear parking area.

Mr. Heavner observed that not one of the five conditions of the use permit had been met since it was approved in 1998. Mr. Fisher said the applicant never expected to have to put in certain caliper trees and other requirements, so they gave up and put the property on the market. Mr. Heavner suggested that in six months the applicant should report progress to the County on implementing the conditions. Mr. Fisher said the applicant is unable to work with VDOT (Virginia Department of Transportation).

Mr. Hendricks inquired with whom the applicant had spoken to apprise the County of its problems with the conditions, and Mr. Fisher said they had not spoken to any County staff about the problems.

Mr. Hendricks stated his belief that both the Planning and Development staffs would have been willing to work with them had the County known of the problems cited by Mr. Fisher.

Mr. Dick Ambrose, 205 Marl Ravine Road, stated that he owns property across Route 17 from and diagonal to the applicant's property. He said the County's requirements and restrictions stifle small business operations, resulting in business vacancies in that area. Mr. Ambrose said several competing Route 17 properties are for sale and if the County is lenient with one, the others could be disadvantaged. He said there is a philosophy that "government knows better than people know about what to do with their own property" and bureaucratic inefficiency keeps first submittals from being approved. Mr. Ambrose supported approving the applicant's request in order to keep the Columbian Council in its building and prevent another vacancy on Route 17.

The Chair closed the public hearing.

Commissioner Al Ptasznik stated he is a member of the applicant organization and requested the support of the Commission in approving at least a one-year, preferably a two-year, extension of time. The membership is comprised of Christian men who perform good acts for the community, he said. Mr. Ptasznik stated the Council operates on volunteer labor, materials, and funds and produces very limited income from the facility with which to pay the mortgage and other bills.

Ms. White said she believed the use of the facility is a good one but expressed disappointment that the applicant had accomplished so little of what it had promised to do.

Mr. Heavner did not believe two years is necessary to meet the County's requirements. He had worked on several projects in the County for which four to six months from the time of site plan approval was an adequate time span to complete the entire project. He said failure of the applicant to document laxity on the part of VDOT has made it more difficult to understand the problem.

Mr. Barba did not doubt the goals of the Columbian Council were high but found it unsatisfactory that nothing had been done in the five years since the permit was approved. He added that the

County and VDOT's plans for widening Route 17 have been public knowledge for a long time. Mr. Barba favored a six-month extension.

Mr. Hendricks agreed with Mr. Barba and added he would have been more sympathetic had the applicant made the County aware of its problems several years ago. All applicants should be held to the same standards, he asserted, and all applicants are expected to abide by the terms of their use permits. He believed that to make exceptions undermines the value of the Zoning Ordinance, but he was willing to consider a compromise.

Ms. White suggested that if a six-month extension is approved, the applicant could return to the Commission and request additional time, if needed.

Mr. Fisher noted that he would welcome any compromise and asked that the Commission consider at least a 12-month extension because six months would not be enough time.

Mr. Carter advised that he would be amenable to the Commission adopting the staff's revised recommendation to approve a six-month extension and allow a further extension at the discretion of the Zoning Administrator based on verification of due diligence by the applicant to complete the work.

Mr. Ptasznik moved adoption of Resolution PCO3-3(R-2), as follows:

PCO3-3(R-2)

On motion of Mr. Ptasznik, which carried 5:0, (Mr. Simasek absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AMEND THE CONDITIONS ESTABLISHED BY RESOLUTION NO. R97-125, APPLICABLE TO THE PROPERTY LOCATED AT 8729 GEORGE WASHINGTON MEMORIAL HIGHWAY

WHEREAS, Columbian Council 7469, Inc. has submitted Application No. UP-614-03, which requests amendment of the conditions established by Resolution No. R97-125 applicable to the property located at 8729 George Washington Highway and further identified as Assessor's Parcel No. 24A-1-5; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has given careful consideration to the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2003, that it does hereby transmit Application No. UP-614-03 to the York County Board of Supervisors with a recommendation of approval subject to the following conditions:

1. This special use permit shall authorize the continuation of a meeting hall pursuant to Section 24.1-306 (Category 4, Number 1) of the Zoning Ordinance at 8729 George Washington Memorial Highway, further identified as Assessor's Parcel No. 24A-1-5.
2. Landscaping as indicated on the site plan titled "Modified Site Plan & Facility Landscape Plan for Columbian Council 7469," dated 7/11/97, and approved by the York County Director of Environmental & Development Services on March 3, 1998, or other such revised site plan approved in accordance with Zoning Ordinance regulations shall be installed within six months from the date of approval of this special use permit by the Board of Supervisors.
3. Paving of the parking lot as indicated on the above referenced approved site plan, or other such revised site plan approved in accordance with Zoning Ordinance regulations shall be completed within six months from the date of approval of this special use permit by the Board of Supervisors.
4. The entrance to the property shall be upgraded to meet current Virginia Department of Transportation standards for commercial entrances within six months from the date of approval of this special use permit by the Board of Supervisors.
5. Except for members of the Columbian Council 7469, vehicular access to the rear parking area shall be prohibited.
6. Hours of operation and all activities shall cease by midnight.
7. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.
8. For good cause shown, the Zoning Administrator may authorize an extension of the six-month term for compliance specified in Condition Nos. 2, 3 or 4 above. Authorization of any additional time for compliance shall require a finding by the Zoning Administrator that the applicant has diligently pursued compliance by preparing and filing any site plan amendment requests, by responding to any requirements for revision, by pursuing all necessary approvals and permits from VDOT for the commercial entrance, and/or by diligently pursuing construction of the improvements shown on the existing approved site plan or those shown on an approved revision. The Zoning Administrator may consider extenuating circumstances such as an extended site plan review period beyond the control of the applicant, as well as time required to pursue in good faith the possibility of a joint commercial entrance with the adjoining property to the north. Consideration of additional time for compliance with landscaping requirements shall be limited to those portions of the site dependent on the final location, design and construction of the commercial entrance.

BE IT FURTHER RESOLVED that the conditions stated above shall supercede the conditions listed in Resolution No. R97-125, as applied to the above-referenced parcel.